

House File 425 - Enrolled

House File 425

AN ACT

RELATING TO THE RELEASE OF CUSTODY OF A NEWBORN INFANT UNDER THE
NEWBORN SAFE HAVEN ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 233.1, Code 2023, is amended to read as follows:

233.1 Newborn safe haven Act — definitions.

1. **This chapter** may be cited as the "*Newborn Safe Haven Act*".
2. For the purposes of **this chapter**, unless the context otherwise requires:

a. "Emergency medical care provider location" means the physical business location of an emergency medical care provider.

b. "Fire department" means a paid or volunteer fire protection service provided by a benefited fire district under chapter 357B or by a county, municipality or township, or a private corporate organization that has a valid contract to provide fire protection service for a benefited fire district, county, municipality, township, or governmental agency.

c. "Fire station" means the physical business location of a fire department.

~~a.~~ d. "First responder" means an emergency medical care provider as defined in section 147A.1, a registered nurse staffing an authorized service program under section 147A.12, a physician assistant staffing an authorized service program under section 147A.13, a fire fighter, or a peace officer as defined in section 801.4.

~~b.~~ e. "Institutional health facility" means a hospital as defined in section 135B.1, including a facility providing medical or health services that is open twenty-four hours per day, seven days per week, and is including a hospital emergency room or a health care facility as defined in section 135C.1.

~~c.~~ f. "Newborn infant" means a child who is, or who appears to be, ninety days of age or younger.

g. "Newborn safety device" means a padded and climate-controlled receptacle that meets one of the following requirements:

(1) If the receptacle is located at a hospital, the receptacle is conspicuous and visible to hospital staff.

(2) If the receptacle is located at a fire station or an emergency medical care provider location:

(a) The fire station or emergency medical care provider location is staffed by a first responder twenty-four hours per day, seven days per week, notwithstanding the time staff is dispatched for an emergency.

(b) The receptacle is located in an area that is conspicuous and visible to staff, or the receptacle is located in an area that is not visible to staff but is equipped with a motion sensor and a dual alarm system. The dual alarm system shall

be programmed to sound first when the receptacle is opened, immediately placing a telephone call to a 911 service and dispatching an emergency medical care provider or a fire fighter to the location of the receptacle, and to sound a second time, immediately placing a telephone call to a 911 service after movement is detected inside the receptacle.

Sec. 2. Section 233.2, Code 2023, is amended to read as follows:

233.2 Newborn infant custody release procedures.

1. *a.* A parent of a newborn infant may voluntarily release custody of the newborn infant ~~by~~ as follows:

(1) By relinquishing physical custody of the newborn infant, without expressing an intent to again assume physical custody, at an institutional health facility or a fire station, or by authorizing another person to relinquish physical custody on the parent's behalf. If physical custody of the newborn infant is not relinquished directly to an individual on duty at the an institutional health facility or a fire station, the parent may take other actions to be reasonably sure that an individual on duty is aware that the newborn infant has been left at the institutional health facility or fire station. The actions may include but are not limited to making telephone contact with the institutional health facility or fire station, or a 911 service.

(2) By relinquishing physical custody of the newborn infant to medical staff at a hospital or other facility following delivery of the newborn infant in the hospital or other facility when the parent notifies the medical staff that the parent is voluntarily relinquishing physical custody of the newborn infant without expressing an intent to again assume physical custody.

(3) By relinquishing physical custody of the newborn infant at a hospital, a fire station, or an emergency medical care provider location, through a newborn safety device, without expressing an intent to again assume physical custody.

b. In lieu of the procedure described in paragraph "a", a parent of a newborn infant may make telephone contact with a 911 service and relinquish physical custody of the newborn infant, without expressing an intent to again assume physical

custody, to a first responder who responds to the 911 telephone call.

c. For the purposes of [this chapter](#) and for any judicial proceedings associated with the newborn infant, a rebuttable presumption arises that the person who relinquishes physical custody ~~at an institutional health facility or to a first responder~~ in accordance with [this section](#) is the newborn infant's parent or has relinquished physical custody with the parent's authorization.

2. a. Unless the parent or other person relinquishing physical custody of a newborn infant clearly expresses an intent to return to again assume physical custody of the newborn infant, an individual on duty or medical staff, as applicable, at the institutional health facility, emergency medical care provider location, or fire station at which physical custody of the newborn infant was relinquished, or a first responder to whom physical custody of the newborn infant was relinquished, pursuant to [subsection 1](#) shall take physical custody of the newborn infant. ~~The individual on duty or first responder~~ who takes physical custody of the newborn infant may request the parent or other person to provide the name of the parent or parents and information on the medical history of the newborn infant and the newborn infant's parent or parents. However, the parent or other person is not required to provide the names or medical history information to comply with this section. ~~The individual on duty or first responder~~ who takes custody of the newborn infant may perform reasonable acts necessary to protect the physical health or safety of the newborn infant. ~~The individual on duty and~~ who takes custody of the newborn infant, the institutional health facility in, the emergency medical care provider location, or the fire station at which the individual was on duty took custody of the newborn infant, and the first responder are immune from criminal or civil liability for any acts or omissions made in good faith to comply with [this section](#).

b. If the physical custody of a newborn infant is relinquished at an emergency medical care provider location or a fire station, or to a first responder who responded to a 911 telephone call, the individual who took physical custody

of the newborn infant or the first responder shall transport the newborn infant to the nearest institutional health facility. The individual or first responder shall provide any parental identification or medical history information to the institutional health facility.

c. If the physical custody of the newborn infant is relinquished at an institutional health facility, the state shall reimburse the institutional health facility for the institutional health facility's actual expenses in providing care to the newborn infant and in performing acts necessary to protect the physical health or safety of the newborn infant. The reimbursement shall be paid from moneys appropriated for this purpose to the department of human services.

d. If the name of the parent is unknown to the institutional health facility, the individual on duty or other person designated by the institutional health facility at which physical custody of the newborn infant was relinquished shall submit the certificate of birth report as required pursuant to section 144.14. If the name of the parent is disclosed to the institutional health facility, the facility shall submit the certificate of birth report as required pursuant to section 144.13. The department of ~~public~~ health and human services shall not file the certificate of birth with the county of birth and shall otherwise maintain the confidentiality of the birth certificate in accordance with [section 144.43](#).

3. As soon as possible after the individual ~~on-duty~~ or first responder assumes physical custody of a newborn infant released under [subsection 1](#), the individual or first responder shall notify the department of health and human services and the department shall take the actions necessary to assume the care, control, and custody of the newborn infant. The department shall immediately notify the juvenile court and the county attorney of the department's action and the circumstances surrounding the action and request an ex parte order from the juvenile court ordering, in accordance with the requirements of section 232.78, the department to take custody of the newborn infant. Upon receiving the order, the department shall take custody of the newborn infant. Within twenty-four hours of taking custody of the newborn infant, the department shall

notify the juvenile court and the county attorney in writing of the department's action and the circumstances surrounding the action.

4. *a.* Upon being notified in writing by the department under [subsection 3](#), the county attorney shall file a petition alleging the newborn infant to be a child in need of assistance in accordance with [section 232.87](#) and a petition for termination of parental rights with respect to the newborn infant in accordance with [section 232.111, subsection 2](#), paragraph "a". A hearing on a child in need of assistance petition filed pursuant to [this subsection](#) shall be held at the earliest practicable time. A hearing on a termination of parental rights petition filed pursuant to [this subsection](#) shall be held no later than thirty days after the day the physical custody of the newborn child was relinquished in accordance with [subsection 1](#) unless the juvenile court continues the hearing beyond the thirty days for good cause shown.

b. Notice of a petition filed pursuant to [this subsection](#) shall be provided to any known parent and others in accordance with the provisions of [chapter 232](#) and shall be served upon any putative father registered with the state registrar of vital statistics pursuant to [section 144.12A](#). In addition, prior to holding a termination of parental rights hearing with respect to the newborn infant, notice by publication shall be provided as described in [section 600A.6, subsection 5](#).

5. Reasonable efforts, as defined in [section 232.102](#), that are made in regard to the newborn infant shall be limited to the efforts made in a timely manner to finalize a permanency plan for the newborn infant.

6. An individual ~~on duty at an institutional health facility~~ or first responder who assumes custody of a newborn infant upon the release of the newborn infant under [subsection 1](#) shall be provided notice of any hearing held concerning the newborn infant at the same time notice is provided to other parties to the hearing and the individual or first responder may provide testimony at the hearing.

Sec. 3. Section 233.4, Code 2023, is amended to read as follows:

233.4 Rights of parents.

Either parent of a newborn infant whose custody was released in accordance with [section 233.2](#) may intervene in the child in need of assistance or termination of parental rights proceedings held regarding the newborn infant and request that the juvenile court grant custody of the newborn infant to the parent. The requester must show by clear and convincing evidence including but not limited to by the use of DNA profiling as defined in section 81.1 that the requester is the parent of the newborn infant. If the court determines that the requester is the parent of the newborn infant and that granting custody of the newborn infant to the parent is in the newborn infant's best interest, the court shall issue an order granting custody of the newborn infant to the parent. In addition to such order, the court may order services for the newborn infant and the parent as are in the best interest of the newborn infant.

Sec. 4. Section 233.6, Code 2023, is amended to read as follows:

233.6 Educational and public information.

The department of health and human services, in consultation with the ~~Iowa department of public health and the department of justice~~, shall develop and distribute the following:

1. An information card or other publication for distribution by an institutional health facility, an emergency medical care provider location, a fire station, or a first responder to a parent who releases custody of a newborn infant in accordance with [this chapter](#). The publication shall inform the parent of a parent's rights under [section 233.4](#), explain the request for medical history information under [section 233.2, subsection 2](#), and provide other information deemed pertinent by the departments.

2. Educational materials, public information announcements, and other resources to develop awareness of the availability of the newborn safe haven Act among adolescents, young parents, and others who might avail themselves of [this chapter](#).

3. Signage that may be used to identify the institutional health facilities, emergency medical care provider locations,

or fire stations, at which physical custody of a newborn infant may be relinquished in accordance with [this chapter](#).

PAT GRASSLEY
Speaker of the House

AMY SINCLAIR
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 425, Ninetieth General Assembly.

MEGHAN NELSON
Chief Clerk of the House

Approved _____, 2023

KIM REYNOLDS
Governor